

## EXTRADITION

*Convention signed at San Salvador May 23, 1870*

*Senate advice and consent to ratification December 9, 1870*

*Ratified by the President of the United States December 16, 1870*

*Ratified by El Salvador October 28, 1873*

*Ratifications exchanged at Washington March 2, 1874*<sup>1</sup>

*Entered into force March 2, 1874*

*Proclaimed by the President of the United States March 4, 1874*

*Terminated March 2, 1904*<sup>2</sup>

18 Stat. 693; Treaty Series 309

### CONVENTION FOR THE SURRENDER OF CRIMINALS BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF SALVADOR

The United States of America and the Republic of Salvador, having judged it expedient, with a view to the better administration of justice, and to the prevention of crimes within their respective territories and jurisdiction, that persons convicted of or charged with the crimes hereinafter specified, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a convention for that purpose, and have appointed as their Plenipotentiaries, the President of the United States, Alfred T. A. Torbert, Minister Resident to Salvador; the President of the Republic of Salvador, Señor Doctor Don Gregorio Arbízú, Minister of Foreign Affairs; who, after reciprocal communication of their full powers, found in good and due form, have agreed upon the following articles, to wit:

#### ARTICLE 1ST

The Government of the United States and the Government of Salvador mutually agree to deliver up persons who, having been convicted of or charged with the crimes specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: *Provided*, That this shall only be done upon such evidence of criminality as, according to the laws of the place

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<sup>1</sup> Time for exchange of ratifications extended by convention of May 12, 1873 (TS 311), *post*, p. 495.

<sup>2</sup> Pursuant to notice of termination given by El Salvador Oct. 9, 1894.

where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed.

#### ARTICLE 2ND

Persons shall be delivered up who shall have been convicted of, or be charged, according to the provisions of this convention, with any of the following crimes:

1. Murder, comprehending the crimes designated in the penal codes of the contracting parties by the terms homicide, parricide, assassination, poisoning, and infanticide.

2. The attempt to commit murder.

3. The crimes of rape, arson, piracy, and mutiny on board a ship, whenever the crew, or part thereof, by fraud or violence against the commander, have taken possession of the vessel.

4. The crime of burglary, defined to be the action of breaking and entering by night into the house of another with the intent to commit felony; and the crime of robbery, defined to be the action of feloniously and forcibly taking from the person of another goods or money by violence, or putting him in fear.

5. The crime of forgery, by which is understood the utterance of forged papers, the counterfeiting of public, sovereign, or government acts.

6. The fabrication or circulation of counterfeit money, either coin or paper, of public bonds, bank-notes, and obligations, and in general of all things being titles or instruments of credit, the counterfeiting of seals, dies, stamps, and marks of state and public administration, and the utterance thereof.

7. The embezzlement of public moneys, committed within the jurisdiction of either party, by public officers or depositors.

8. Embezzlement, by any person or persons, hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

#### ARTICLE 3RD

The provisions of this treaty shall not apply to any crime or offence of a political character; and the person or persons delivered up for the crimes enumerated in the preceding article shall in no case be tried for any ordinary crime committed previously to that for which his or their surrender is asked.

#### ARTICLE 4TH

If the person whose surrender may be claimed, pursuant to the stipulations of the present treaty, shall have been arrested for the commission of offences in the country where he has sought an asylum, shall have been convicted

therefor, his extradition may be deferred until he shall have been acquitted or have served the term of imprisonment to which he may have been sentenced.

#### ARTICLE 5TH

In no case and for no motive shall the high contracting parties be obliged to deliver up their own subjects. If, in conformity with the laws in force in the state to which the accused belongs, he ought to be submitted to criminal procedure for crimes committed in the other state, the latter must communicate the information and documents, send the implements or tools which were employed to perpetrate the crime, and procure every other explanation or evidence necessary to prosecute the case.

#### ARTICLE 6TH

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties, or in the event of the absence of these from the country, or its seat of government, they may be made by superior consular officers. If the person whose extradition may be asked for shall have been convicted of a crime, a copy of the sentence of the court in which he may have been convicted, authenticated under its seal, and an attestation of the official character of the judge by the proper executive authority, and of the latter by the minister or consul of the United States or of Salvador, respectively, shall accompany the requisition. When, however, the fugitive shall have been merely charged with crime, a duly-authenticated copy of the warrant for his arrest in the country where the crime may have been committed, or the depositions upon which such warrant may have been issued, must accompany the requisition aforesaid. The President of the United States or the President of Salvador may then issue a warrant for the apprehension of the fugitive, in order that he may be brought before the proper judicial authority for examination. If it should then be decided that, according to law and the evidence, the extradition is due, pursuant to the treaty, the fugitive may be given up according to the forms prescribed in such cases.

#### ARTICLE 7TH

The expenses of the arrest, detention, and transportation of the persons claimed shall be paid by the government in whose name the requisition shall have been made.

#### ARTICLE 8TH

This convention shall continue in force during ten (10) years from the day of exchange of ratifications; but if neither party shall have given to the other six (6) months' previous notice of its intention to terminate the same, the convention shall remain in force ten years longer, and so on.

The present convention shall be ratified and the ratifications exchanged at the city of Washington within twelve (12) months, and sooner if possible.<sup>3</sup>

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate, and have thereunto affixed their seals.

Done at the city of San Salvador the Twenty-third day of May, A.D. one thousand eight hundred and seventy, and of the Independence of the United States the ninety-fourth.

ALFRED T. A. TORBERT [SEAL]

GREGO. ARBIZÚ [SEAL]

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<sup>3</sup> See footnote 1, p. 474.